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UNITED STATES OF AMERICA
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11 UNITED STATES DISTRICT COURT
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13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
14

15 UNITED STATES OF AMERICA,

No. CR 15-0707-R

16 Plaintiff,

GOVERNMENT'S POSITION RE: SENTENCING
FOR DEFENDANT JESSICA LOPEZ

17 v.

JESSICA LOPEZ,

Sentencing Date: June 6, 2016

Defendant.

18 Plaintiff United States of America, by and through its counsel
19 of record, the United States Attorney for the Central District of
20 California and Assistant United States Attorney Daffodil Tyminski
21 and, hereby files the government's position with respect to
22 sentencing defendant Jessica Lopez ("defendant").
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This sentencing position is based upon the attached memorandum of points and authorities, the files and records in this case, and such further evidence and argument as the Court may permit.

Dated: May 31, 2016

Respectfully submitted,

EILEEN M. DECKER
United States Attorney

LAWRENCE S. MIDDLETON
Assistant United States Attorney
Chief, Criminal Division

/S/
DAFFODIL TYMINSKI
Assistant United States Attorney

Attorney for Plaintiff
UNITED STATES OF AMERICA

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On April 1, 2015, defendant pleaded guilty to count five of the Indictment. (Presentence Investigation Report ("PSR") of the United States Probation Office ("USPO") dated May 9, 2016 ¶ 2.) Based on the PSR and the facts and circumstance of this case, the government asks that the Court impose a sentence of 46 months imprisonment, followed by three years of supervised release, no fine, and a special assessment of \$100.

II. BACKGROUND AND THE USPO'S FINDINGS

Count Five charges defendant with distribution of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C). The charges stem from defendant's distribution of methamphetamine for defendant Roberto Macias, the leader of the conspiracy. As part of the conspiracy, on or about January 10, 2014, defendant arranged for defendant Macias to distribute approximately 109.8 grams of methamphetamine to co-defendant Aguilar, and on or about January 19, 2014, defendant arranged for defendant Macias to distribute approximately 41 grams of methamphetamine to co-defendant Garcia.

In defendant's plea agreement, the parties agreed to a base offense level of 30, pursuant to U.S.S.G. § 2D1.1(c)(5) (Plea Agreement ¶ 17), which is consistent with the USPO's calculated base offense level. (PSR ¶¶ 23.) The USPO also found that defendant should receive a two-level reduction for meeting the "safety-valve" criteria, under U.S.S.G. § 5C1.2, and that she should receive an additional three-level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(b), for a total adjusted offense level of 25.

1 (PSR ¶¶ 22-31.) The government does not object to the USPO's
2 calculations. The USPO also concluded that defendant is in criminal
3 history category I, and the government does not object to this
4 finding. (PSR ¶¶ 36-40.)

5 Defendant's sentencing guidelines range, at a total offense
6 level of 25 and in criminal history category of I, is 57-71 months.
7 The government is recommending a 46 month sentence, however, which is
8 effectively equal to a further two-level guidelines reduction, in
9 recognition of the fact that immediately after her arrest, defendant
10 admitted her conduct, accepted responsibility, and agreed to plead
11 guilty. In the government's view, defendant's quick actions after
12 the arrest was influential in the other defendants pleading guilty in
13 this case. For the reasons set forth below, the government believes
14 that a 46 month sentence, followed by three years of supervised
15 release, no fine, and a special assessment of \$100, is sufficient,
16 but not greater than necessary to accomplish the Court's purpose in
17 sentencing.

18 **III. ANALYSIS OF THE 3553(a) FACTORS**

19 The factors to be considered when imposing sentence, as set
20 forth in 18 U.S.C. § 3553(a), include:

21 **A. Nature and Circumstances of the Offense and the
22 History and Characteristics of Defendant**

23 Although co-defendant Macias was a major player in narcotics
24 distribution, defendant Lopez had lesser involvement, and the
25 Methamphetamine conspiracy in which defendant participated was short
26 lived.

27 Defendant Lopez has a sympathetic personal history, having grown
28 up in the United States and Mexico. She is a United States citizen

1 who moved with her mother to Mexico at a young age. It appears as
2 though defendant's early years were relatively unstable, and he
3 family's moving back and forth between Mexico and the United States
4 made completing her schooling difficult. After moving to the United
5 States permanently as a young adult, defendant worked to support
6 family members back in Mexico.

7 **B. The Seriousness of the Offense, Deterrence, and the Need to
8 Protect the Public**

9 Methamphetamine distribution is a serious offense. The
10 government submits that the aggravating factors - the nature of the
11 offense and defendant's use of others (co-defendants Aguilar and
12 Garcia) to further the conspiracy - balanced against mitigating
13 factors - such as defendant's acceptance of responsibility and family
14 background - warrant the requested sentence.

15 For the foregoing reasons, and based on the sentencing
16 guidelines as well as the factors set forth in 18 U.S.C. § 3553(a),
17 the government requests that the Court sentence the defendant to 46
18 months imprisonment, followed by three years of supervised release,
19 no fine, and a mandatory special assessment of \$100.

20 Dated: May 31, 2016 Respectfully submitted,

21 EILEEN M. DECKER
22 United States Attorney

23 LAWRENCE S. MIDDLETON
24 Assistant United States Attorney
25 Chief, Criminal Division

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27 /S/
28 DAFFODIL TYMINSKI
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